

AMENDED IN SENATE MAY 29, 2002
AMENDED IN ASSEMBLY APRIL 30, 2002
AMENDED IN ASSEMBLY APRIL 1, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1858

**Introduced by Assembly Member La Suer
(Coauthors: Assembly Members Cohn and Simitian)**

January 30, 2002

An act to add Chapter ~~6.8~~ 5.8 (commencing with Section 13849) to Title 6 of Part 4 of the Penal Code, relating to high technology crimes, *and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1858, as amended, La Suer. High technology crimes.

Existing law generally creates the High Technology Theft Apprehension and Prosecution Program within the Office of Criminal Justice Planning. The purpose of the program is to provide local law enforcement and district attorneys with the tools necessary to successfully interdict the promulgation of high technology crime. Existing law creates the High Technology Theft Apprehension and Prosecution Program Trust Fund. Moneys in the trust fund are required to be expended to fund programs to enhance the capacity of local law enforcement and prosecutors to deter, investigate, and prosecute high technology-related crimes.

This bill would create the High Technology Laboratory Trust Fund as a special account within the General Fund to be administered by the Office of Criminal Justice Planning. Money in the fund would be

~~required continuously appropriated to be used, upon an appropriation by the Legislature,~~ for the purposes of defraying the costs incurred for computer forensic analysis or other analysis of electronic or computer evidence related to investigating and prosecuting high technology offenses, as defined. This bill would also provide that the court may order payment by the defendant convicted of a high technology offense, a forensic laboratory analysis fee, as specified, not to exceed \$25,000. *By creating a continuously appropriated fund, this bill would make an appropriation.*

Vote: ~~majority~~ ^{2/3}. Appropriation: ~~no~~ yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter ~~6-8~~ 5.8 (commencing with Section
2 13849) is added to Title 6 of Part 4 of the Penal Code, to read:

3

4 CHAPTER ~~6-8~~ 5.8. THE HIGH TECHNOLOGY LABORATORY TRUST
5 FUND

6

7 13849. (a) The High Technology Laboratory Trust Fund is
8 hereby created as a special account within the General Fund, to be
9 administered by the Office of Criminal Justice Planning. Money
10 in the fund shall, ~~upon appropriation by the Legislature,~~
11 *notwithstanding Section 13340 of the Government Code, be*
12 *continuously appropriated to the Office of Criminal Justice*
13 *Planning to be used for the purposes of defraying the costs*
14 *incurred for computer forensic analysis or other analysis of*
15 *electronic or computer evidence related to investigating and*
16 *prosecuting high-technology offenses, as defined in subdivision*
17 *(e) described in subdivision (b) of Section 13848.*

18 (b) In addition to any other fine, restitution fine or order of
19 restitution, the court may order payment by the defendant
20 convicted of an offense described in subdivision ~~(e)~~ (b) of Section
21 13848 of a minimum forensic computer laboratory analysis fee, if
22 an analysis was conducted in the case, for the reasonable costs
23 incurred for computer forensic analysis or other analysis of
24 electronic or computer evidence, not to exceed twenty-five
25 thousand dollars (\$25,000) per case, including cases where the
26 defendant is not convicted of a felony but is convicted of a

1 misdemeanor. The court may reduce or waive this fee upon a
2 finding that the defendant does not have the ability to pay that fee.
3 The fee is to be collected only after any other court ordered
4 restitution or criminal fines are satisfied. The moneys deposited
5 with the county treasurer pursuant to this section shall be
6 transferred to the Controller for deposit in the High Technology
7 Laboratory Trust Fund. This fee shall not be assessed unless the
8 request for the fee is included in an indictment or in an information
9 or other accusatory pleading filed before trial.

10 ~~(e) For purposes of this section, a “high-technology related~~
11 ~~offense” is an offense committed with the aid of a computer,~~
12 ~~computer network, electronic mail, or the Internet.~~

13 ~~(d)~~

14 *(c) The Executive Director of the Office of Criminal Justice*
15 *Planning is authorized to allocate and award funds to regional*
16 *high technology task forces that are funded pursuant to Section*
17 *13848.4.*

18 *(d) The allocation and award of funds under this chapter shall*
19 *be made on application of any regional high technology task force*
20 *receiving funds pursuant to Section 13848.4.*

21 *(e) Allocation of funds shall be distributed in proportion to the*
22 *funds collected from the county or counties within the jurisdiction*
23 *of each task force.*

24 *(f) Each regional task force shall use these funds for the*
25 *purposes of defraying the costs incurred by police, sheriffs, and*
26 *district attorneys’ offices for computer forensic analysis or other*
27 *analysis of electronic or computer evidence related to*
28 *investigating and prosecuting high-technology offenses.*

29 *(g) Administration of the overall program and the auditing and*
30 *monitoring of all grants made pursuant to this chapter shall be*
31 *performed by the Office of Criminal Justice Planning, provided*
32 *that the funds expended for these functions shall not exceed 5*
33 *percent of the total amount made available under this chapter.*

34 *(h) For purposes of this section, the terms “computer system”*
35 *and “computer network” are to be construed as they are defined*
36 *in Section 502.*

